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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE AS  
DESIGNATED/ELECTED OFFICE

Applicants: Yi Xiao, et al.

Int. Appln. No: PCT/US2004/007793

Int. Filing Date: 15 March 2004

US Appln. No.: 10/549,425 Case No.: 21178YP

Filed: 15 September 2005

For: PROCESS FOR THE PREPARATION OF CHIRAL  
BETA AMINO ACID DERIVATIVES BY  
ASYMMETRIC HYDROGENATION

Art Unit: 1621

Examiner:  
L. Nagubandi

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

ELECTION/ RESTRICTION REQUIREMENT

Sir:

In response to the Examiner's Election/Restriction Requirement dated November 7, 2007, for which a response is due by December 7, 2007, please consider the following remarks.

Applicants have been asked to elect a process for making a single species in the presence of a specific transition metal precursor complexed to a specific chiral ligand of formula III explicitly disclosed in the specification. The Applicants hereby elect without traverse the species defined in Claim 16, that is, where the specific transition metal precursor is  $[\text{Rh}(\text{cod})\text{Cl}]_2$ , the specific chiral ligand is *R,S*-*t*-Bu Josiphos, and the substrate is the

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compound of structural formula 2-4 on page 15 of the specification to afford the product of structural formula 2-5.

While Applicants do not concede that the above-identified species would not also encompass other claims, Claims 1-18 appear to form a group commensurate with the elected species for search and examination purposes only. Claims other than those listed here may also be relevant to the elected species in certain cases.

Respectfully submitted,

By 

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Date: November 14, 2007

**I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.**

**MERCK & CO., INC.**

By Pamela Spading Date 11-14-07